

APPENDIX XX

Federal Natural Resource Trustees and the Incident Command System/Unified Command

NRT-RRT Factsheet

August 1998

*Prepared by the
National Response Team*

Federal Natural Resource Trustees and the Incident Command System/Unified Command

Purpose: To facilitate implementation of the incident command system/unified command (ICS/UC) in managing response to oil discharges and hazardous substance releases under the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), this fact sheet describes:

- Which organizational units of an ICS/UC Federal natural resource trustees¹ might work in during emergency response activities;
- Resources and assistance Federal trustees can provide during response and preparedness activities; and
- Where in ICS/UC the coordination link occurs between Federal trustee response and natural resource damage assessment (NRDA) activities.

Background: The National Response Team (NRT) has issued an Incident Command System/Unified Command technical assistance document, *Managing Response to Oil Discharges and Hazardous Substance Releases under the NCP*. The technical document states, "although NRDA activities are not carried out under the direction of the Federal On-Scene Coordinator (FOSC), a means of coordination between the FOSC and the trustees needs to be established as part of pre-incident planning." This fact sheet provides information that should be useful in doing this pre-incident planning.

Natural resource trustees have responsibilities as natural resource managers to protect natural resources under their trusteeship. These same agencies have responsibilities as natural resource trustees to assess damages to and ensure restoration of natural resources under their trusteeship.

Trustees Responsibilities in Preparedness and Emergency Response and

Activities During Emergency Response

In preparedness and emergency response under the NCP, trustee representatives:

- Designate appropriate contacts in Area (ACPs) and Regional Contingency Plans (RCPs), and receive notification of discharges and releases.
- Provide technical and scientific assistance/information on natural resource issues in the preparation of ACPs and RCPs and during response activities.
- For lands and resources under trustee agency control, identify special concerns and local agency contacts in ACPs and RCPs, and provide guidelines/concurrence to the OSC on appropriate response techniques and cleanup endpoints during response.
- Facilitate compliance with the consultation requirements of the Endangered Species Act (NOAA and DOI).
- Provide information from NRDA activities that might assist in response activities.
- NRDA responsibilities, on behalf of the public, of the trustees include:
 - Determining whether a natural resource injury has occurred;
 - Assessing damages for injury to, destruction of, or loss of natural resources for those resources under their trusteeship;
 - Developing and implementing a plan for restoration of injured resources; and
 - Obtaining compensation from the responsible party for these damages through negotiation or litigation.

In carrying out NRDA responsibilities during a response action, trustee representatives coordinate with the OSC by:

- Carrying out NRDA activities in a way that is complementary to and not in conflict with response operations.
- Designating a lead administrative trustee to serve as the focal point for coordination between NRDA activities and response operations.
- Providing data from NRDA activities that may support more effective operational decisions to the OSC in a timely manner. Such data can be useful to the OSC in making response decisions.

Federal land and resource managing agencies have statutory responsibilities to protect these lands and resources that may affect their actions and recommendations during an oil discharge or hazardous substance release. These laws may authorize them to take protective actions with or without OSC concurrence and to recover their costs from the responsible party. This is covered in the individual agency fact sheets in the appendix.

Trustee Participation in ICS/UC in Support of Response

Depending on the nature of the incident, trustee representatives, acting as natural resource or land managers, may participate in one or more ICS units. *Each trustee agency may have a different approach to participation in ICS. See agency appendices for more information.*

Planning: Trustee representatives can provide information about sensitive resources and appropriate response techniques through this section. Planning is likely to be the most common location for trustee participation in the ICS. Trustee representatives should participate and assist in activities affecting lands and resources under their jurisdiction. For example, trustee representatives may identify changes in protection priorities or response activities that could prevent or minimize adverse effects to natural resources.

Operations: Trustee representatives should participate and assist in implementation of wildlife response efforts. This is particularly important to ensure these efforts are in compliance with relevant laws. Trustee representatives should participate and assist in activities affecting lands and resources under their jurisdiction.

Command: For incidents with significant effect or the potential for significant effect on trust resources (e.g., critical habitat for threatened and endangered species), having a trustee representative in Command would help to ensure that information on these resources is available to and used appropriately in decision making. For incidents that threaten or affect Federal lands or resources, depending on the management agency and the laws it operates under, it may be advisable to have a representative from the affected agency as part of Command. This representative could provide guidance/concurrence on response and protection strategies commensurate with the special status of the affected or threatened lands or resources.

Logistics: When trustees have significant equipment and vehicle resources or facilities to contribute to the response, it may be useful to have trustee representatives in this section. This might be the case when a spill occurs on or threatens Federal land.

Finance/Administration: If there is significant trustee agency participation in the

response, a trustee representative in this section could assist in supporting trustee personnel. This could involve dealing with time-record documents for personnel and equipment, handling cost estimates and records for trustee agency personnel, etc.

Activities in Emergency Response

Identify/Prioritize Resources at Risk: Trustees can supplement the OSC's information on sensitive resources found in the ACP. The trustees provide local expertise and up-to-date information relevant to the specifics of the incident. Trustees also assist the OSC in priorities in the ACP for sensitive habitat and resources requiring protection.

Evaluate Protective Measures and Clean-up Strategies: Trustees can advise the OSC on determination of cleanup end-points (i.e., how clean is clean). For Federal lands or resources, the land/resource manager should have an integral role in determining the cleanup endpoint.

Participate in Team Assessing Clean-up (Shoreline Clean-up Assessment Team SCAT in coastal areas): Trustees can provide resource experts to assist in assessment of clean-up activities. For Federal lands or resources, representatives of land/resources manager(s) should participate in clean-up assessment. Observations relevant to natural resource injury determination made by members of the clean-up assessment team should be provided to trustee representatives with NRDA responsibility.

Participate in Post Clean-up Inspection (Sign-off Team): Trustee participation on inspection teams at proposed completion of cleanup activities can assist the OSC in determining adequacy of cleanup. For Federal lands or resources, a representative of the land/resource manager should participate on the sign-off team.

Wildlife Rehabilitation: Trustee representatives participate through the ICS regarding appropriate response actions for injured wildlife. Trustee representatives ensure proper rehabilitation organizations are contacted and necessary permits have been obtained. They provide oversight to ensure wildlife response plans are implemented appropriately. Trustees also maintain chain of custody for wildlife that cannot be rehabilitated. Trustee representatives are responsible for development and implementation of wildlife release protocols.

Trustee NRDA Liaison with ICS/UC

NRDA Liaison with ICS/UC

Exchange of information between and coordination of natural resource damage assessment and response activities can be beneficial by preventing natural resource injury or losses, avoiding duplication of data-gathering, and allowing for

efficient use of available personnel and equipment. Most NRDA activities occur outside of the ICS/UC. The appropriate place within the ICS for emergency response information exchange and coordination to occur depends on the nature of the response and the trustees involved (see trustee agency appendices).

- The Planning Section is responsible for collection, evaluation, dissemination, and use of information about the incident, including information about natural resources. This is often a logical place for the liaison between trustee NRDA work and incident response. The trustee liaison is provided by the lead administrative trustee or other personnel designated to serve this function. The person within the Planning Section responsible for working with the lead administrative trustee may be the Scientific Support Coordinator or other personnel designated to serve this function. Because most of the NRDA activities are conducted outside the ICS/UC, it is extremely important for the person, within the Planning Section working with the lead administrative trustee, to communicate the NRDA operations to the unified command and response operations to the lead administrative trustee.
- The Command Staff may be the most appropriate place for liaison for incidents with significant natural resource injury concerns or where trustee concerns are not adequately addressed through the Planning Section.

Natural Resource Injury Determination Activities

Natural resource trustees determine if a NRDA is appropriate for a specific incident. Making this determination may or may not require data collection.

Injury documentation requires gathering information on spilled/released product pathways, documenting exposure to specific resources along those pathways, and quantification of injuries caused by the product. Direct or indirect exposure to the product may injure/disrupt natural resources and/or services provided by those resources.

Within the first 24-48 hours, trustee representatives usually focus their efforts on gathering and preserving perishable data. Water column data are generally collected as soon as possible. A source sample of the product with appropriate chain of custody is collected and archived for future characterizations.

Trustees, the RP, and the OSC need to collect similar physical, chemical, and biological data. They also need sample and laboratory protocols. Coordination of worker health and safety plans, work plans, protocols, and activities is advantageous to all parties and should be pursued. Where coordination cannot occur, trustees must ensure that injury determination activities do not interfere with response activities.

Emergency Restoration: During a response, trustee representatives may take

emergency restoration actions that are feasible or necessary to minimize continuing or prevent additional injury. Emergency restoration activities initiated by trustee representatives should not interfere with the ongoing response. Trustee emergency restoration authority is exercised through NRDA emergency provisions of CERCLA and OPA.⁷ *Each trustee agency may have a different approach to emergency restoration. See agency appendices for more information.*

Endnotes

1 Natural resource trustees are:

(a) FEDERAL OFFICIALS designated by the President:

- SECRETARIES OF INTERIOR, AGRICULTURE, DEFENSE, & ENERGY as land managing agencies, for natural resources located on, over, or under land administered by each agency.
- SECRETARIES OF COMMERCE AND INTERIOR for general categories of natural resources, including their supporting ecosystems.

(b) STATE OFFICIALS designated by the Governor.

(c) INDIAN OFFICIALS designated by the governing body of any Indian tribe.

(d) FOREIGN OFFICIALS designated by the head of any foreign government (for OPA releases only).

Federal and State Agencies and Indian Tribes may be co-trustees for the same natural resource.

Detailed information on natural resource trustees and emergency response may be found in a training module on the World Wide Web address:

<http://www.doi.gov/oepr/response/a00.htm>.

2 Information about individual natural resource trustee agencies is attached as appendices to this document.

3 The NCP requires the OSC to "coordinate all response activities with the affected natural resource trustees and, for discharges of oil. . . consult with the affected trustees on the appropriate removal action to be taken" [40 CFR 300.135(j)(2)]. The NCP also requires the OSC to consult with the Department of the Interior (DOI) and the National Oceanic and Atmospheric Administration (NOAA) before using chemical countermeasures in spill situations not covered by a preauthorization plan [40 CFR 300.910(b)].

4 40 CFR 300.615(c)(3)(ii)

5 40 CFR 300.3059e) and 300.615(c)(3)(ii)

6 40 CFR 400.305

7 15 CFR 990.26 and 43 CFR 11.21

TO BE ADDED:

Appendix A: Federal Natural Resource Trustees

Appendix B: State Natural Resource Trustees

Appendix C: Indian/Tribal Natural Resource Trustees

Appendix D: Foreign Officials Natural Resource Trustees

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